

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ALBERT D. MCCANTS,

Plaintiff,

v.

CIVIL ACTION NO. 2:06-0876

PRIMECARE MEDICAL OF
WEST VIRGINIA, INC., et al.,

Defendants.

MEMORANDUM OPINION AND JUDGMENT ORDER

By Standing Order entered August 1, 2006, and filed in this case on October 17, 2006, this action was referred to United States Magistrate Judge Mary Stanley for submission of Proposed Findings and Recommendation. Magistrate Judge Stanley submitted her Proposed Findings and Recommendation on May 4, 2007. (Doc. No. 47.) In that Proposed Findings and Recommendation, the magistrate judge recommended that this court 1) grant defendants' motions for summary judgment (Doc. Nos. 24, 26 & 32)¹, and 2) deny plaintiff's motion for summary judgment or motion for trial (Doc. No. 41).

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which

¹ These three motions were filed as motions to dismiss, or in the alternative, motions for summary judgment. (See Doc. Nos. 24, 26 & 32.) Magistrate Judge Stanley proposed that the court treat them as motions for summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure. (Doc. No. 47 at 4.)

to file any objections to Magistrate Judge Stanley's Proposed Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a *de novo* review by this court and appellate review by the circuit court of appeals. Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 155 (1985).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby 1) **GRANTS** defendants' motions for summary judgment (Doc. Nos. 24, 26 & 32)², and 2) **DENIES** plaintiff's motion for summary judgment or motion for trial (Doc. No. 41).

The Clerk is directed to remove this matter from the court's active docket and to forward a certified copy of this written Memorandum Opinion and Judgment Order to counsel of record and plaintiff, pro se.

IT IS SO ORDERED this 30th day of May, 2007.

ENTER:



David A. Faber
Chief Judge

² The court accepts Magistrate Judge Stanley's recommendation that it treat all of defendants' motions as motions for summary judgment, so that it may rely upon information outside of the pleadings.